

**BEFORE THE NEBRASKA TAX EQUALIZATION
AND REVIEW COMMISSION**

LINDA K. McLAUGHLIN

Case No. 96R-0012

Appellant,

vs.

**AMENDED
FINDINGS AND ORDERS**

JEFFERSON COUNTY BOARD OF
EQUALIZATION,

Appellee.

Filed March 10, 1997

Appearances:

For the Appellant:

Linda K. McLaughlin
104 N 13th Street
Hebron, NE 68470

For the Appellee:

Arliss M. Brown, County Assessor
411 4th Street
Fairbury, NE 68352

Before: Commissioners Edwards, Hans and Reynolds

Hans, Presiding:

SUMMARY OF DECISION

The Commission reverses the decision of the Jefferson County Board of Equalization. That Board declined to adjust the value of the improvement.

NATURE OF THE CASE

Linda K. McLaughlin, ("Taxpayer") filed this appeal challenging the decision of the Jefferson County Board of Equalization ("County"). That Board was presented with a request to reduce the assessed value of the improvements due to age and condition. Taxpayer appeals from decision denying this request.

DUTIES OF THE PARTIES

Taxpayer, if dissatisfied with the county assessor's determination of assessed value of Taxpayer's real property, must file a written protest with County. Neb. Rev. Stat. § 77-1502(1995 Supp.) Between June 1 and July 25 of each year, County reviews and decides those protests. County is required to fairly and impartially equalize the assessments which it reviews. Neb. Rev. Stat. § 77-1504 (1995 Supp.).

ANALYSIS

The Commission took judicial notice of the Rules and Regulations of the Tax Equalization and Review Commission; the pleadings contained in the case file; the provisions of Title 316, *Nebraska Administrative Code*; the statistics which were prepared and submitted by the Property Tax Division as required by Neb. Rev. Stat. § 77-1327 (6) (Reissue 1996); the County Profile for Jefferson County for 1996 which was prepared and submitted by the Property Tax Division; the book *Property Assessment Valuation*, 2nd Edition, by the International Association of Assessing Officers; Volumes I and II of the Nebraska Assessors Manual. The following exhibits were also received by the Commission: 1. A photo of Kitchen Ceiling (recent); 2., 42 pages of Documents, property record cards, and statistical data from the Jefferson County Assessors files; and 3., Six photos of "similar" property in Fairbury, three of which were acknowledged by the County Assessor as in the neighborhood. Those property record cards, and comparable data, were requested by the Commission and were provided to the Commission and the Taxpayer by mail.

FINDINGS OF FACT

From the pleadings and the evidence the Commission finds and determines as follows:

- I. Taxpayer owns certain residential property located at 1329 C Street in the city of Fairbury, Jefferson County, Nebraska.
- II. Taxpayer provided County Board of Equalization with an itemized list of structural defects that hamper the occupancy of the improvements. Photos were shown to the Board.

- III. The County relied on computer generated comparables that produced extremely wide variances in adjustments when compared to subject property. For example, the most comparable (sold at \$12,000, adjusted to \$1,460), the third most comparable (sold at \$16,000, adjusted to \$4,539), the fifth most comparable (sold at \$5,000, adjusted to \$17,051).
- IV. The three comparables provided by the Taxpayer, and determined by the Assessor to be in the neighborhood, are better comparable than the properties selected in the computer comparison.
- V. The County's determination of replacement cost new less depreciation is unreasonable when compared with photos of conditions. Replacement costs are high, and there is not sufficient depreciation used for condition.

JURISDICTION

The Tax Equalization and Review Commission has jurisdiction of this case pursuant to Neb. Rev. Stat. §77-1233.04(6) (1995 Supp.).

STANDARD OF REVIEW

The Commission must, as required by Neb. Rev. Stat. §77-1511 (1995 Supp.) "affirm the action taken by the board unless evidence is adduced establishing that the action of the board was unreasonable or arbitrary . . . "

CONCLUSIONS OF LAW

The Commission must, therefore, and hereby does conclude as a matter of law that:

- I. Contrary to Neb. Rev. Stat. § 77-201 (1) (Reissue 1996) this property is assessed at more than its value and that is unreasonable and not legal.
- II. Not knowing what value a fee appraisal would place on the improvements located on the property, the Commission is faced with using the adjusted value of the most comparable property (\$1,460), which is less than the undisputed land value, i.e., the property would be of greater value without the

improvement.

ORDER

IT IS, THEREFORE, ORDERED as follows:


- I. The decision of the Jefferson County Board of Equalization which denied Taxpayer's protest is reversed.
- II. The Taxpayer's real property, known in the Jefferson County Assessor's Office as Lot 8, Block 3, Ashby Freeman Addition (1329 C Street) Fairbury, Nebraska and which previously had an assessed value of \$8,500.00 for tax year 1996, is hereby reduced to **\$2,762.00** for the tax year 1996.
- III. That this decision, if no appeal is filed, shall be certified within thirty days to the Jefferson County Treasurer, and the Jefferson County Assessor, pursuant to Neb. Rev. Stat. §77-1511 (Reissue 1996).
- IV. That each party is to bear its own costs in this matter.

IT IS SO ORDERED.

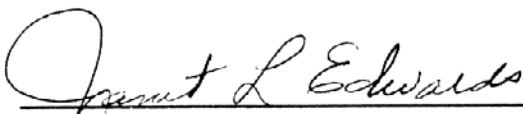
Dated this 10th day of March, 1997.



Seal



Mark P. Reynolds, Chairman



Janet L. Edwards, Commissioner



Robert L. Hans, Commissioner